

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES JIMINEZ,

Plaintiff, No. CIV S-04-1532 LKK JFM P

vs.

E. TOWNSELL, et al.,

Defendants. FINDINGS & RECOMMENDATIONS

_____/ Pursuant to notice, this matter came on for hearing on June 2, 2005 for consideration of dismissal for lack of prosecution. Plaintiff did not appear at the hearing. Eric Turner, Esq., appeared as counsel for defendants. On April 22, 2005, plaintiff was ordered to show cause in person and in writing why this matter should not be dismissed for lack of prosecution. Plaintiff was cautioned that failure to submit a declaration as required by the April 22, 2005 order would result in a recommendation that this action be dismissed.

The order to show cause followed plaintiff's failure to appear at an April 14, 2005 hearing on defendants' motions to compel production of documents, supplemental responses to interrogatories, and plaintiff's deposition, or to respond in any way to said motions. As noted above, plaintiff did not appear at the show cause hearing, nor did he file the required declaration or respond in any way to the court's April 22, 2005 show cause order. This file reflects no

1 activity by plaintiff for four months. Plaintiff submitted no reasons why this matter should not be
2 dismissed, did not provide an explanation for lack of activity in this case and described no plans
3 to prepare this case for trial.

4 In accordance with the above, IT IS HEREBY RECOMMENDED that this
5 action be dismissed for lack of prosecution. See Fed. R. Civ. P. 41(b).

6 These findings and recommendations will be submitted to the United States
7 District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
8 twenty days after being served with these findings and recommendations, any party may file
9 written objections with the court and serve a copy on all parties. Such a document should be
10 captioned "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the
11 objections shall be served and filed within ten days after service of the objections. The parties
12 are advised that failure to file objections within the specified time may waive the right to appeal
13 the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14 DATED: June 21, 2005.

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16 UNITED STATES MAGISTRATE JUDGE
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